

Exhibit D

Approved:

HARRY A. CHERNOFF
JASON H. COWLEY
Assistant United States Attorneys

13 MAG 0683

Before: THE HONORABLE RONALD L. ELLIS
United States Magistrate Judge
Southern District of New York

UNITED STATES OF AMERICA

:
: SEALED
: COMPLAINT

-v-

:

Violations of

TOMAS ALBERTO CLARKE : 18 U.S.C. § 371
BETHANCOURT, : 15 U.S.C. § 78dd-2
JOSE ALEJANDRO HURTADO, and : 18 U.S.C. § 1952(a)(3)(A)
MARIA DE LOS ANGELES GONZALEZ : 18 U.S.C. § 1956(a)(2)(A)
DE HERNANDEZ, a/k/a "Maria De : 18 U.S.C. § 1956(h)
Los Angeles Gonzalez," : 18 U.S.C. § 2
a/k/a "Mary," :

Defendants. :

SOUTHERN DISTRICT OF NEW YORK, ss.:

LILIAN PEREZ, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation and charges as follows:

COUNT ONE

(Conspiracy To Violate the Foreign Corrupt Practices Act)

1. From at least in or around December 2008 through in or around October 2010, in the Southern District of New York and elsewhere, TOMAS ALBERTO CLARKE BETHANCOURT (hereinafter "TOMAS CLARKE"), and JOSE ALEJANDRO HURTADO (hereinafter "ALEJANDRO HURTADO"), the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, violations of the Foreign Corrupt Practices Act (the "FCPA"), Title 15, United States Code, Section 78dd-2.

2. It was a part and object of the conspiracy that TOMAS CLARKE and ALEJANDRO HURTADO, the defendants, and others known and unknown, being citizens, nationals, and residents of

the United States and officers, directors, employees, and agents of "domestic concerns," as that term is defined in the FCPA, and stockholders thereof acting on behalf of such "domestic concerns," would and did make use of the mails and means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of moneys, offers, gifts, promises to give, and authorizations of the giving of things of value to foreign officials, and to any person, while knowing that the money or thing of value will be offered, given, or promised to a foreign official, for purposes of (a) influencing acts and decisions of such foreign officials in their official capacity, (b) inducing such foreign officials to do and omit to do acts in violation of the lawful duty of such officials, (c) securing an improper advantage, and (d) inducing such foreign officials to use their influence with a foreign government, and agencies and instrumentalities thereof, to affect and influence acts and decisions of such foreign government, and agencies and instrumentalities thereof, in order to assist TOMAS CLARKE and ALEJANDRO HURTADO and others known and unknown in obtaining and retaining business for and with, and directing business to, any person, in violation of Title 15, United States Code, Section 78dd-2.

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about May 21, 2009, ALEJANDRO HURTADO, the defendant, emailed MARIA DE LOS ANGELES GONZALEZ DE HERNANDEZ, a/k/a "Maria De Los Angeles Gonzalez" a/k/a "Mary" (hereinafter, "MARIA GONZALEZ"), a foreign official in Venezuela, a spreadsheet of bond transactions and associated commissions. This spreadsheet, which related to transactions occurring in May 2009, reflected that 50% of the commissions were for "MdAG," which are GONZALEZ's initials, for a total amount of \$509,250.

b. On or about July 13, 2009, HURTADO received instructions in an email from GONZALEZ directing him to wire certain funds to an account in Switzerland held in the name of an associate of GONZALEZ ("Associate 1").

c. On or about July 21, 2009, acting upon the instructions described above, HURTADO caused to be wired approximately \$509,250 from an account in the United States that

had received funds from a particular broker-dealer (the "Broker-Dealer") in New York, New York, to a correspondent account maintained in New York, New York, for further transfer to an account in Switzerland held in the name of Associate 1.

d. On or about September 29, 2009, the Broker-Dealer in New York sent a wire transfer of approximately \$2,002,983 to an account held by a Panamanian company, ETC Investments SA,¹ in Switzerland and controlled by TOMAS CLARKE, the defendant.

e. On or about January 28, 2010, CLARKE caused his employer, the Broker-Dealer, to purchase and sell certain bonds.

f. On or about April 19, 2010, CLARKE caused to be wired approximately \$883,488 from an ETC Investments account in Switzerland holding funds that had been received from the Broker-Dealer in New York, New York, to an account in Switzerland held by a company owned jointly by GONZALEZ and Associate 1.

g. On or about May 6, 2010, CLARKE caused to be wired approximately \$700,000 from an ETC Investments account in Switzerland that had received funds from the Broker-Dealer in New York, New York, to an account in Switzerland held by a company owned jointly by GONZALEZ and Associate 1.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Violation of the Foreign Corrupt Practices Act)

4. On or about July 21, 2009, in the Southern District of New York and elsewhere, ALEJANDRO HURTADO, the defendant, being a citizen, national, and resident of the United States and therefore a "domestic concern," as that term is defined in the FCPA, and an officer, director, employee, and agent of a "domestic concern," and a stockholder thereof acting on behalf of such "domestic concern," made use of the mails and means and instrumentalities of interstate commerce corruptly in furtherance of offers, payments, promises to pay, and authorizations of the payment of any money, and offers, gifts, promises to give, and authorizations of the giving of things of

¹ This entity was also referred to as "ETC Investment, Inc." and "ETC Investment SA." For purposes of this Complaint, this entity is referred to as "ETC Investments."

value to foreign officials, and to any person, while knowing that the money or thing of value will be offered, given, or promised to a foreign official, for purposes of (a) influencing acts and decisions of such foreign officials in their official capacities, (b) inducing such foreign officials to do and omit to do acts in violation of the lawful duty of such officials, (c) securing an improper advantage, and (d) inducing such foreign officials to use their influence with a foreign government, and agencies and instrumentalities thereof, to affect and influence acts and decisions of such foreign government, and agencies and instrumentalities thereof, in order to assist HURTADO in obtaining and retaining business for and with, and directing business to, any person, to wit, HURTADO used the means and instrumentalities of interstate commerce to wire a payment at the direction of MARIA GONZALEZ, a foreign official in Venezuela, of approximately \$509,250 to an account held in the name of Associate 1, in order to obtain and retain trading business directed by GONZALEZ on behalf of a Venezuelan state-owned and state-controlled economic development bank to the Broker-Dealer, with which HURTADO was affiliated.

(Title 15, United States Code, Section 78dd-2, and Title 18, United States Code, Section 2.)

COUNT THREE

(Violation of the Foreign Corrupt Practices Act)

5. Between on or about May 18 and on or about June 4, 2010, in the Southern District of New York and elsewhere, TOMAS CLARKE, the defendant, being a citizen, resident, and national of the United States and therefore a "domestic concern," as that term is defined in the FCPA, and an officer, director, employee, and agent of a "domestic concern," and a stockholder thereof acting on behalf of such "domestic concern," made use of the mails and means and instrumentalities of interstate commerce corruptly in furtherance of offers, payments, promises to pay, and authorizations of the payment of any money, and offers, gifts, promises to give, and authorizations of the giving of things of value to foreign officials, and to any person, while knowing that the money or thing of value will be offered, given, or promised to a foreign official, for purposes of (a) influencing acts and decisions of such foreign officials in their official capacities, (b) inducing such foreign officials to do and omit to do acts in violation of the lawful duty of such officials, (c) securing an improper advantage, and (d) inducing such foreign officials to use their influence with a foreign government, and agencies and instrumentalities thereof, to affect and influence acts and decisions of such foreign government, and

agencies and instrumentalities thereof, in order to assist CLARKE in obtaining and retaining business for and with, and directing business to, any person, to wit, CLARKE, acting as an intermediary, caused certain funds to be sent from the Broker-Dealer in New York, New York to MARIA GONZALEZ, a foreign official in Venezuela, in order to obtain and retain trading business directed by GONZALEZ on behalf of a Venezuelan state-owned and state-controlled economic development bank to the Broker-Dealer.

(Title 15, United States Code, Section 78dd-2, and Title 18, United States Code, Section 2.)

COUNT FOUR

(Conspiracy To Violate the Travel Act)

6. From at least in or around December 2008 through in or around October 2010, in the Southern District of New York and elsewhere, TOMAS CLARKE, ALEJANDRO HURTADO, and MARIA GONZALEZ, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, violation of the Travel Act, Title 18, United States Code, Section 1952(a)(3)(A).

7. It was a further part and object of the conspiracy that TOMAS CLARKE, ALEJANDRO HURTADO, and MARIA GONZALEZ, the defendants, and others known and unknown, unlawfully, willfully, and knowingly, would and did travel in interstate and foreign commerce and use the mail and facilities in interstate and foreign commerce, with intent to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of unlawful activities, namely, (a) violations of the anti-bribery provisions of the FCPA, Title 15, United States Code, Section 78dd-2, (b) commercial bribery, in violation of New York State Penal Law Section 180.00 and (c) commercial bribe receiving, in violation of New York State Penal Law Section 180.05; and thereafter would and did perform and attempt to perform acts to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on, of such unlawful activity, in violation of Title 18, United States Code, Section 1952(a)(3)(A).

Overt Acts

8. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others,

were committed in the Southern District of New York and elsewhere:

a. On or about May 21, 2009, ALEJANDRO HURTADO, the defendant, emailed MARIA GONZALEZ, the defendant, a spreadsheet of bond transactions and associated commissions. This spreadsheet, which related to transactions occurring in May 2009, reflected that 50% of the commissions were for "MdAG," which are GONZALEZ's initials, for a total amount of \$509,250.

b. On or about July 13, 2009, HURTADO received instructions in an email from GONZALEZ directing him to wire funds to an account in Switzerland held in the name of Associate 1.

c. On or about July 21, 2009, acting upon the instructions described above, HURTADO caused to be wired approximately \$509,250 from an account in the United States that had received funds from the Broker-Dealer to a correspondent account maintained in New York, New York, for further transfer to an account in Switzerland held in the name of Associate 1.

d. On or about September 29, 2009, the Broker-Dealer in New York sent a wire transfer of approximately \$2,002,983 to an account held by ETC Investments in Switzerland and controlled by TOMAS CLARKE, the defendant.

e. On or about January 28, 2010, CLARKE caused his employer, the Broker-Dealer, to purchase and sell certain bonds.

f. On or about April 19, 2010, CLARKE caused to be wired approximately \$883,488 from an ETC Investments account in Switzerland that had received funds from the Broker-Dealer in New York, New York, to an account in Switzerland held by a company owned jointly by GONZALEZ and Associate 1.

g. On or about May 6, 2010, CLARKE caused to be wired approximately \$700,000 from an ETC Investments account in Switzerland that had received funds from the Broker-Dealer in New York, New York, to an account in Switzerland held by a company owned jointly by GONZALEZ and Associate 1.

(Title 18, United States Code, Section 371.)

COUNT FIVE

(Violation of the Travel Act)

9. On or about July 21, 2009, in the Southern District of New York and elsewhere, ALEJANDRO HURTADO and MARIA GONZALEZ, the defendants, unlawfully, willfully, and knowingly, would and did travel in interstate and foreign commerce and use the mails and facilities in interstate commerce, with intent to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of unlawful activity, namely, (a) violations of the anti-bribery provisions of the FCPA, Title 15, United States Code, Section 78dd-2, (b) commercial bribery, in violation of New York State Penal Law Section 180.00, and (c) commercial bribe receiving, in violation of New York State Penal Law Section 180.05; and thereafter would and did perform and attempt to perform acts to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on, of such unlawful activity, in violation of Title 18, United States Code, Section 1952(a)(3)(A), to wit, HURTADO used facilities in interstate commerce to wire a payment at the direction of GONZALEZ, a foreign official in Venezuela, of approximately \$509,250 to an account held in the name of an associate of GONZALEZ, in order to obtain and retain trading business directed by GONZALEZ on behalf of a Venezuelan state-owned and state-controlled economic development bank to the Broker-Dealer, with which HURTADO was affiliated.

(Title 18, United States Code, Sections 1952 and 2.)

COUNT SIX

(Violation of the Travel Act)

10. Between on or about May 18 and June 4, 2010, in the Southern District of New York and elsewhere, TOMAS CLARKE, the defendant, unlawfully, willfully, and knowingly, would and did travel in interstate and foreign commerce and use the mails and facilities in interstate commerce, with intent to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of unlawful activity, namely, (a) violations of the anti-bribery provisions of the FCPA, Title 15, United States Code, Section 78dd-2, (b) commercial bribery, in violation of New York State Penal Law Section 180.00, and (c) commercial bribe receiving, in violation of New York State Penal Law Section 180.05; and thereafter would and did perform and attempt to perform acts to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on, of such unlawful

activity, in violation of Title 18, United States Code, Section 1952(a)(3)(A), to wit, CLARKE, acting as an intermediary, caused certain funds to be sent from the Broker-Dealer in New York, New York to MARIA GONZALEZ, a foreign official in Venezuela, in order to obtain and retain trading business directed by GONZALEZ on behalf of a Venezuelan state-owned and state-controlled economic development bank to the Broker-Dealer.

(Title 18, United States Code, Sections 1952 and 2.)

COUNT SEVEN

(Conspiracy To Commit Money Laundering)

11. From at least in or around December 2008 through in or around October 2010, in the Southern District of New York and elsewhere, TOMAS CLARKE, ALEJANDRO HURTADO, and MARIA GONZALEZ, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Section 1956.

12. It was a part and an object of said conspiracy that ALEJANDRO HURTADO, TOMAS CLARKE, and MARIA GONZALEZ, the defendants, and others known and unknown, would and did transport, transmit and transfer funds from a place in the United States to and through a place outside the United States and to a place in the United States from and through a place outside the United States, with the intent to promote the carrying on of specified unlawful activity, that is, (1) violations of the FCPA, Title 15, United States Code, Section 78dd-2, and (2) violations of the Travel Act, Title 18, United States Code, Section 1952(a)(3)(A).

(Title 18, United States Code, Sections 1956(h))

COUNT EIGHT

(Money Laundering)

13. On or about July 21, 2009, in the Southern District of New York and elsewhere, ALEJANDRO HURTADO and MARIA GONZALEZ, the defendants, in an offense involving and affecting interstate and foreign commerce, unlawfully, willfully, and knowingly would and did transport, transmit, and transfer, and attempt to transport, transmit, and transfer, monetary instruments and funds from a place in the United States to and through a place outside the United States and to a place in the United States from and through a place outside the United States, with the intent to promote the carrying on of specified unlawful

activity, that is, (1) violations of the FCPA, Title 15, United States Code, Section 78dd-2, and (2) violations of the Travel Act, Title 18, United States Code, Section 1952(a)(3)(A); to wit, HURTADO and GONZALEZ caused approximately \$509,250 to be wire transferred from the United States to Switzerland, to carry on the bribery scheme described more fully below.

(Title 18, United States Code, Sections 1956(a)(2)(A) and 2.)

COUNT NINE
(Money Laundering)

14. Between in or about May 18 and June 4, 2010, in the Southern District of New York and elsewhere, TOMAS CLARKE, the defendant, in an offense involving and affecting interstate and foreign commerce, unlawfully, willfully, and knowingly would and did transport, transmit, and transfer, and attempt to transport, transmit, and transfer, monetary instruments and funds from a place inside the United States to and through a place outside the United States and to a place in the United States from and through a place outside the United States, with the intent to promote the carrying on of specified unlawful activity, that is, (1) violations of the FCPA, Title 15, United States Code, Section 78dd-2, and (2) violations of the Travel Act, Title 18, United States Code, Section 1952(a)(3)(A); to wit, CLARKE, acting as an intermediary, caused certain funds to be sent from the Broker-Dealer in New York, New York to an account in Switzerland controlled by MARIA GONZALEZ, to carry on the bribery scheme described more fully below.

(Title 18, United States Code, Sections 1956(a)(2)(A) and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

15. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have been an FBI Special Agent for approximately 7 years, and I have personally participated in the investigation described herein. This affidavit is based upon my conversations with others, including other law enforcement agents, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

RELEVANT ENTITIES AND THE DEFENDANTS

16. At all times relevant to this Complaint, Banco de Desarrollo Económico y Social de Venezuela ("BANDES"), the state-owned and state-controlled economic development bank of the Bolivarian Republic of Venezuela, operated under the direction of the Venezuelan People's Ministry of Planning and Finance. BANDES acted as the financial agent of the Venezuelan government in order to promote economic and social development, serve as the trustee for agencies of the public sector, and support the expansion and diversification of Venezuela's infrastructure.

17. At all times relevant to this Complaint, the "Broker-Dealer" was a brokerage firm registered with the U.S. Securities and Exchange Commission (the "SEC") and with its principal place of business in New York, New York. The Broker-Dealer maintained desks at the New York and American Stock Exchanges and had offices in New York, New York, as well as Miami, Florida.

18. Since approximately June 2008, and at all times relevant to this Complaint, MARIA GONZALEZ, the defendant, served as either the Vice President of Finance or Executive Manager of Finance and Funds Administration of BANDES. As such, GONZALEZ was a "foreign official" as that term is defined by the FCPA. In these capacities, GONZALEZ oversaw BANDES's trading abroad, including trading by the Broker-Dealer on behalf of BANDES. GONZALEZ was listed by the Broker-Dealer as the authorized trading contact for BANDES.

19. Beginning in or around late 2008, TOMAS CLARKE, the defendant, was an employee of the Broker-Dealer based in Miami, Florida. CLARKE served as a Senior Vice President in the Global Markets Group of the Broker-Dealer. CLARKE was listed as the Broker-Dealer's account opening salesman for the BANDES account.

20. Beginning in or about July 2009, ALEJANDRO HURTADO, the defendant, was an employee of the Broker-Dealer based in Miami, Florida. Prior to that, beginning in or around January 2009, HURTADO's spouse ("Hurtado's Spouse") was affiliated with the Broker-Dealer as a foreign finder.²

² The Financial Industry Regulatory Authority ("FINRA") has promulgated rules permitting compensation to be paid to non-registered "foreign finders" based on the business they direct to a registered broker-dealer if certain conditions are met.

According to payroll records, in 2010, HURTADO's first full year of employment at the Broker-Dealer, HURTADO was one of the highest compensated employees at the Broker-Dealer, receiving approximately \$4,384,616 in salary and bonus.

OVERVIEW OF THE BRIBERY SCHEME

21. Based on the information set forth herein, there is probable cause to believe that TOMAS CLARKE and ALEJANDRO HURTADO, the defendants, and others known and unknown, directed kickback payments to MARIA GONZALEZ, the defendant, in exchange for GONZALEZ steering BANDES business to the Broker-Dealer and authorizing BANDES to execute bond trades with the Broker-Dealer. As set forth below, between at least in or around December 2008 and October 2010, GONZALEZ received at least \$3.6 million in payments through insiders and affiliates of the Broker-Dealer. The payments to GONZALEZ represented a portion of the monies generated by the Broker-Dealer's bond trading activity in connection with BANDES. During this time period, with GONZALEZ both acting as the authorized trading contact in regard to the Broker-Dealer and managing the relationship between BANDES and the Broker-Dealer, BANDES directed substantial business to the Broker-Dealer and carried out bond transactions that resulted in the Broker-Dealer generating tens of millions of dollars in revenue.

22. As part of the scheme, ALEJANDRO HURTADO, the defendant, and Hurtado's Spouse received millions of dollars from the Broker-Dealer in the form of salary, bonus payments, and finders fees, that were generated from the Broker-Dealer's mark-ups and mark-downs in connection with the securities it bought from and sold to BANDES. HURTADO, in turn, conveyed a portion of these funds back to MARIA GONZALEZ, the defendant. Also as part of this scheme, millions of dollars generated from BANDES-related mark-ups and mark-downs were sent from the Broker-Dealer to a foreign entity controlled by CLARKE, with a portion of these funds being further transferred to an entity owned jointly by GONZALEZ and Associate 1 (the "Gonzalez Company").

23. In order to promote this bribery scheme, TOMAS CLARKE and ALEJANDRO HURTADO, the defendants, along with others known and unknown, conspired to transmit and transmitted funds, constituting kickback payments, from accounts inside the United States to accounts outside of the United States. These accounts outside of the United States were controlled by, among others, GONZALEZ, Associate 1, and the Gonzalez Company. I believe that GONZALEZ, CLARKE, and HURTADO used middlemen and intermediary corporate entities to route these payments to GONZALEZ in order

to conceal these kickback payments.

OVERVIEW OF THE BROKER-DEALER'S WORK FOR BANDES

24. Starting in or around 2008, the Broker-Dealer established a group within the Broker-Dealer known as the Global Markets Group ("GMG"). The GMG primarily served institutional clients by providing fixed income trading services in the purchase and sale of foreign sovereign debt.

25. The GMG would, at a customer's direction, locate a bond the customer wished to purchase, purchase that bond, and then resell it to the customer at a higher price. The Broker-Dealer would retain this "mark-up." Conversely, when selling a bond on behalf of a customer, the Broker-Dealer would purchase the bond from the customer at a below-market price and then sell that bond on the market for a higher price. The Broker-Dealer would retain this "mark-down."

26. In November 2010, the SEC commenced a periodic examination of the Broker-Dealer. From November 2010 through March 2011, the SEC's staff made several visits to the firm's offices in New York, New York, to conduct the examination; the SEC's final contact with the firm in connection with conducting the examination was in or about July 2011.

GONZALEZ MANAGED THE RELATIONSHIP WITH THE BROKER-DEALER
ON BEHALF OF BANDES

27. I have reviewed documents, including documents that the SEC obtained from the Broker-Dealer, reflecting that MARIA GONZALEZ, the defendant, managed the relationship between the Broker-Dealer and BANDES and authorized the Broker-Dealer to execute trades on behalf of BANDES. For example:

a. I have reviewed documents indicating that GONZALEZ had served as the Vice President of Finance or as the Executive Manager of Finance and Funds Administration of BANDES since approximately June 2008.

b. I have reviewed Broker-Dealer documents that identify GONZALEZ as BANDES's "Authorized Trading Contact" for the Broker-Dealer. Another BANDES employee is listed as the "Primary Trading Contact."

c. I have reviewed an email GONZALEZ sent on or about June 4, 2009, to ALEJANDRO HURTADO, the defendant, with the

subject (translated from Spanish):³ "Bonds." The email stated (translated from Spanish): "Hello! Enclosed please find the portfolio that you are going to negotiate for the Vnzl-27; it has to be valued on a daily basis to see if we can come out ahead. It's in your hands." On or about June 5, 2009, the following day, HURTADO forwarded this email to TOMAS CLARKE, the defendant, and another employee of the Broker-Dealer. When forwarding the email from GONZALEZ, HURTADO stated in his own email (translated from Spanish):

Good Morning, Guys,

Here you have more work (thank God).

We can start right away, so let's talk before starting.

A big hug.

AH

d. I have reviewed an email HURTADO sent on or about October 20, 2010, to GONZALEZ attaching a spreadsheet setting forth possible bond transactions that the Broker-Dealer could execute for BANDES. HURTADO's email stated, in part (translated from Spanish): "Please look it over, like I said it could be fast and very efficient. If you look it over you will be able to see how great it would be to do it."

**BANDES TRANSACTIONS GENERATED SUBSTANTIAL REVENUE
FOR THE BROKER-DEALER**

28. Based in part upon my review of documents obtained from the Broker-Dealer, I have learned that between in or around April 2009 through in or around June 2010, the overwhelming majority of revenue generated by the GMG resulted from the execution of bond trades for BANDES. During this time period, the Broker-Dealer generated over \$60 million in revenue from BANDES trading in fixed income investments, including Venezuelan bonds.

29. Based in part upon my review of documents obtained from the Broker-Dealer and trading records I have reviewed, I

³ Translations of emails written in Spanish were prepared by a translator who has certified that she is competent to conduct such translations and further certified under penalty of perjury that the translations are true and correct.

have also learned of specific securities transactions that the Broker-Dealer carried out with BANDES that generated substantial revenue for the Broker-Dealer in the form of mark-ups, including the following:

a. In or around late January 2010, TOMAS CLARKE, the defendant, caused the Broker-Dealer to execute at least two trades between the Broker-Dealer and BANDES for the same bonds on the same day. In other words, BANDES sold certain bonds and then shortly thereafter purchased back those same bonds. The result of such trades was that BANDES was left with the same bond holdings as before the trades, except that it had paid the Broker-Dealer approximately \$10.5 million in mark-ups in the course of the two round-trip transactions. Specifically:

i. First, on or about January 28, 2010, CLARKE caused the Broker-Dealer to purchase from BANDES bonds issued by a Venezuelan state-owned electric utility ("ELECAR") for approximately \$90,673,000. CLARKE on behalf of the Broker-Dealer then, on that same day, sold these same ELECAR bonds back to BANDES for approximately \$95,953,000, resulting in a mark-up paid to the Broker-Dealer of approximately \$5,280,000.

ii. Second, on or about January 29, 2010, the Broker-Dealer purchased from BANDES a number of ELECAR bonds for approximately \$90,017,014. On or about the same day, the Broker-Dealer then sold these same ELECAR bonds back to BANDES for approximately \$95,257,014, resulting in a mark-up paid to the Broker-Dealer of approximately \$5,240,000.

b. As described more fully below, I have reviewed documents obtained from the Broker-Dealer indicating that roughly half of the approximately \$10.5 million in revenue generated by these mark-ups was designated to be paid as kickbacks to GONZALEZ.

**GONZALEZ RECEIVED KICKBACK PAYMENTS FROM BROKER-DEALER
EMPLOYEES AND AFFILIATES BASED ON TRADES
EXECUTED BY THE BROKER-DEALER FOR BANDES**

30. Based in part upon my review of documents obtained from the Broker-Dealer, financial records, and emails obtained during the course of the investigation, I have learned, in substance and in part, the following:

a. As set forth further below, between at least in or around May 2009 through in or around August 2010, MARIA GONZALEZ, the defendant, both personally and through the Gonzalez

Company, received kickback payments from employees of the Broker-Dealer and other individuals associated with the Broker-Dealer, including TOMAS CLARKE and ALEJANDRO HURTADO, the defendants. These kickbacks were derived from revenue the Broker-Dealer generated from BANDES through executing trades for BANDES.

b. GONZALEZ arranged for payments to be made to herself, in part, through payments directed to the Gonzalez Company and her co-owner of the Gonzalez Company, Associate 1. These payments were made or directed by, among others, CLARKE and HURTADO, who both worked in the Miami, Florida office of the Broker-Dealer. In turn, CLARKE and HURTADO used intermediaries, including corporate entities, to convey these payments to GONZALEZ.

Email Correspondence Regarding Payments to GONZALEZ

31. I have reviewed emails obtained from the Broker-Dealer that reflect certain payments to be paid to MARIA GONZALEZ, the defendant. These emails include the following:

a. On or about February 8, 2010, TOMAS CLARKE, the defendant, sent from his personal Bloomberg email account an email to ALEJANDRO HURTADO, the defendant, at HURTADO's Broker-Dealer email account, attaching a document with the file name "alejandroyeconomista mes de feb.xlsx" (translated from Spanish: "alejandro and the [female] economist month of Feb.") that contained several spreadsheets.

i. One of the spreadsheets contained rows of bond trades and columns reflecting commissions, in addition to the trading prices.

ii. Next to the commissions column were two additional columns, entitled "Mary" and "Miami/[Acronym for Broker-Dealer]" in which the commissions were split into two amounts for each trade.

iii. This entire spreadsheet, which is entitled "Economista 2," reflected \$5,302,231 in commissions to "[Acronym for Broker-Dealer]/Miami" and \$5,260,439 in commissions to "Mary." The amount of kickback commissions allocated to "Mary" - \$5,260,439 - included the commissions generated from the late-January 2010 ELECAR transactions described above.

b. On or about April 9, 2010, CLARKE sent from his Broker-Dealer email account an email to a Gmail account used by HURTADO (the "HURTADO Gmail Account"). Attached to the email

was a document with the file name "alejandros y economista mes de mar.xlsx" (translated from Spanish: "alejandros and the [female] economist month of March") that contained several spreadsheets.

i. One of the spreadsheets contained rows of bond trades and columns reflecting, in addition to the trading prices, commissions.

ii. Next to the commissions column were two columns, entitled "Comisiones" and "Mary" in which the number listed as the commissions was divided in half and entered in the "Mary" column.

iii. This spreadsheet, which was also entitled "Economista 2," reflected \$107,985 in commissions to "Mary."

c. On or about May 25, 2010, CLARKE sent from his Broker-Dealer account an email to HURTADO at the Hurtado Gmail Account attaching a document with the file name "alejandros y economista mes de Mayo 2010.xlsx" (translated from Spanish: "alejandros and the [female] economist month of May 2010") that contained several spreadsheets.

i. One of the spreadsheets contained rows of bond trades and columns reflecting, in addition to the trading prices, commissions.

ii. Next to the commissions column were two columns, entitled "Comisiones" and "Mary" in which the number listed as the commissions was divided in half and entered in the "Mary" column. This spreadsheet, which was also entitled "Economista 2," reflected \$108,500 in commissions to "Mary."

32. I have reviewed email correspondence obtained through search warrants indicating that ALEJANDRO HURTADO, the defendant, sent MARIA GONZALEZ, the defendant, spreadsheets setting forth BANDES bond trades with the Broker-Dealer, trading prices, and payments to be made to GONZALEZ. These emails include the following:

a. On or about May 21, 2009, HURTADO sent from the Hurtado Gmail Account an email to GONZALEZ at a Yahoo account used by GONZALEZ (the "Gonzalez Yahoo Account"), with a "cc" to another co-conspirator ("CC-1"). The subject line stated "cuadro final abril" (translated from Spanish: "final april graph"). The email stated (translated from Spanish):

Dear Sirs,

I am sending you here the final graph for April

Greetings

Alejandro Hurtado
[address and phone number]

Attached to the email was a spreadsheet entitled "MdAG Abril 2009.xls" (translated from Spanish: "MdAG April 2009"). "MdAG" appear to be the initials for "Maria de los Angeles Gonzalez." The attached spreadsheet contained rows of bond trades and columns reflecting, in addition to the trading prices, commissions. Next to the column reflecting these commissions was a column entitled "MdAG." That column reflected a total of \$31,875.00.

b. Also on or about May 21, 2009, HURTADO sent from the Hurtado Gmail Account another email to GONZALEZ at the Gonzalez Yahoo Account, with a "cc" to CC-1. The subject line stated "mayo" (translated from Spanish: "May"). Attached to the email was a spreadsheet entitled "MdAG Mayo 2009.xls" (translated from Spanish: "MdAG May 2009"). The attached spreadsheet contained rows of bond trades and columns reflecting, in addition to the trading prices, commissions. Next to the column reflecting these commissions was a column entitled "MdAG." That column reflected a total of \$509,250.

c. On or about June 23, 2009, HURTADO sent from the Hurtado Gmail account an email to GONZALEZ at the Gonzalez Yahoo Account. The subject line stated "Cuadro Junio" (translated from Spanish: "June Graph"). The email stated (translated from Spanish):

Here I am sending you the graph for June.

Please review everything, let me know of any remarks. I reviewed everything and it is very good.

I hope we continue this way and improve every day.

Kiss

AH

Attached to the email was a spreadsheet entitled "junio_incentivo-mary.xls" (translated from Spanish: "June

Incentive"). The attached spreadsheet contained rows of bond trades and columns reflecting, in addition to the trading prices, commissions. Next to the column reflecting these commissions was a column entitled "Mary." That column reflected a total of \$941,366.80.

d. On or about July 28, 2009, HURTADO sent from the Hurtado Gmail Account an email to GONZALEZ at the Gonzalez Yahoo Account. The subject line stated "incentivo j[u]lio" (translated from Spanish: "July incentives"). The email stated (translated from Spanish):

I am sending you here the graph for July

Forgive me for the delay, tomas [CLARKE] had already sent it to me.

Kisses

Alejandro Hurtado

Attached to the email was a spreadsheet entitled "Mary Julio 09.xlsx." The attached spreadsheet contained rows of bond trades and columns reflecting, in addition to the trading prices, commissions. Next to the column reflecting these commissions was a column entitled "Mary." That column reflected a total of \$233,550.

e. On or about February 8, 2010, HURTADO sent an email from the Hurtado Gmail Account to GONZALEZ at a Gmail account used by GONZALEZ (the "Gonzalez Gmail Account"). The email stated (translated from Spanish):

Dear Mary

As I promised, here are the numbers to date of what has been done.

Please review and later we will talk on the phone.

Greetings

AH

Attached to the email was a spreadsheet entitled "MARY cuadro Enero-Febrero 2010.xls" (translated from Spanish: "Mary statement January-February 2010"). The attached spreadsheet contained rows of bond trades and columns reflecting, in addition to the trading

prices, commissions. Next to the commissions column was a column entitled "Mary." That column reflected a total of \$5,260,439.

f. On October 20, 2010, HURTADO sent from the Hurtado Gmail Account an email to GONZALEZ at the Gonzalez Gmail Account. Attached to the email was a spreadsheet setting forth possible bond transactions that the Broker-Dealer could execute for BANDES. The subject line of the email stated: "Escenario ELCR" (translated from Spanish: "ELCR Scenario"). HURTADO's email stated, in part (translated from Spanish):

Here's the Elecr [sic] scenario

Please look it over, like I said it could be fast and very efficient.

If you look it over you will be able to see how great it would be to do it.

The attached spreadsheet set forth two possible transactions involving "Elecar" bonds. The spreadsheet included a column entitled "Economista" with dollar figures - \$7,890,000 and \$6,575,000, respectively - for each transaction.

HURTADO's Payments to GONZALEZ and to the Gonzalez Company

33. Based in part upon my review of documents obtained from the Broker-Dealer, I have learned, in substance and in part, that Hurtado's Spouse and HURTADO were heavily compensated by the Broker-Dealer as follows:

a. From in or around January 2009 through in or around July 2009, Hurtado's Spouse, a Venezuelan national residing in Florida, was paid commissions by the Broker-Dealer as a "foreign finder." Specifically, from in or around April 2009 through in or around July 2009, the Broker-Dealer paid Hurtado's Spouse approximately \$8 million in purported foreign finder's fees in connection with BANDES trades.

b. In or around July and August 2009, the Broker-Dealer stopped paying Hurtado's Spouse as a foreign finder. At or around this same time, ALEJANDRO HURTADO, the defendant, became an employee of the Broker-Dealer.

c. HURTADO was not a licensed broker or trader in the United States. Nevertheless, according to payroll records, in 2010, HURTADO's first full year of employment at the Broker-Dealer, HURTADO was one of the highest compensated

employees at the Broker-Dealer, receiving approximately \$4,384,616 in salary and bonus.

34. Based in part upon my review of financial records I have reviewed during this investigation, I have learned, in substance and in part, that ALEJANDRO HURTADO, the defendant, made payments to MARIA GONZALEZ, the defendant, and the Gonzalez Company. Specifically, I have learned the following:

a. On or about May 28, 2009, a check for approximately \$3,747 that was signed by HURTADO and drawn on a bank account controlled by HURTADO and Hurtado's Spouse, was deposited into a bank account held by GONZALEZ in Miami, Florida (the "Miami Gonzalez Account"). The memo line of the check stated "April comm."

b. On or about July 21, 2009, HURTADO wired approximately \$509,250 from an account in the United States held jointly by HURTADO and Hurtado's Spouse. These funds were wired to a correspondent bank account in New York, New York for further transfer to an account in Switzerland held in the name of Associate 1. As described above, Associate 1 was a co-owner of the Gonzalez Company with GONZALEZ.

c. On or about September 1, 2009, HURTADO wired approximately \$45,000 from an account in the United States to the Miami Gonzalez Account.

d. On or about January 25, 2010, a check for approximately \$20,000 that was drawn on an account held in the name of HURTADO was deposited into the Miami Gonzalez Account. The check was made payable to "Maria de los Angeles Gonzalez," with the memo line reading "LOAN." GONZALEZ's signature, which I have compared to another document signed by her, appears on the back of this check as that of the endorser.

e. On or about February 13, 2010, a check for approximately \$98,750 that was drawn on a bank account held in the name of HURTADO was deposited into the Miami Gonzalez Account. The check was made payable to "Maria de los Angeles Gonzalez," with the memo line reading "loan Mary."

35. In connection with the approximately \$509,250 that ALEJANDRO HURTADO, the defendant, wired to an account held in the name of Associate 1 on or about July 21, 2009, described above in sub-paragraph 34(b), I have reviewed an email indicating that MARIA GONZALEZ, the defendant, directed HURTADO to wire these funds to the account held in Associate 1's name. Specifically,

on or about July 13, 2009, an email was sent from the Gonzalez Yahoo Account to the Hurtado Gmail Account directing that HURTADO transfer \$509,250 to the account held in the name of Associate 1 in Switzerland through an account in New York. The email is signed: "Maria de Los Angeles Gonzalez."

**HURTADO REQUESTED GONZALEZ TO PAY
HIS TAX LIABILITY FOR KICKBACKS TO HER**

36. Based on the following, I believe that ALEJANDRO HURTADO, the defendant, requested that MARIA GONZALEZ, the defendant, send to HURTADO funds sufficient to cover HURTADO's tax liability for purported income he had received from the Broker-Dealer that he passed on to GONZALEZ as kickback payments:

a. On or about August 13, 2010, HURTADO sent an email from the Hurtado Gmail Account to the Gonzalez Gmail Account. The email stated (translated from Spanish): "Please review the attachments. I will await your comments and revisions."

b. Attached to the email was a document entitled (translated from Spanish): "Transactions: 2009/2010." The document contained columns labeled (translated from Spanish): "Month," "Amount," and "Item."

i. Listed for April is the amount \$31,875.00. This amount is identical to the amount referenced in the "MdAG Abril 2009" spreadsheet referenced above in sub-paragraph 32(a).

ii. Listed for May is the amount \$509,250.00. This amount is identical to the amount referenced in the "MdAG Mayo 2009" spreadsheet referenced above in sub-paragraph 32(b). This amount is also identical to the amount transferred on or about July 21, 2009 to Associate 1 as described above in sub-paragraph 34(b).

iii. Listed for June is the amount \$941,366.80. This amount is identical to the amount referenced in the "junio_incentivo-mary" spreadsheet referenced above in sub-paragraph 32(c).

c. The attached document referenced a subtotal of \$2,028,541.80. It further referenced a "Tax Bracket" of "35%" and a total of \$709,989.63 for "Reinbursment [sic] Tax."

d. Also attached to this email was a typed bank transfer instruction to wire \$709,989.63, the above-referenced tax-reimbursement amount, from an account held in the name of the Gonzalez Company to an account in Switzerland held in the name of a entity affiliated with HURTADO (the "Hurtado Company"). This wire instruction included a signature line for GONZALEZ to sign on behalf of the Gonzalez Company.

e. On or about August 14, 2010, the following day, a reply to the above email was sent from the Gonzalez Gmail Account to the Hurtado Gmail Account. The email stated, in part (translated from Spanish):

Here are all the instructions, it seemed to me that everything is ok. Now I understand your bad mood when you spoke to the accountant from the shock you nearly fell and cracked your ribs, with those taxes anyone would have had a heart attack. That Uncle Sam is baaaaaad. You work and he charges. He makes you crazy.

f. I have reviewed bank records indicating that several days later, on or about August 19, 2010, \$709,989.63 was, in fact, transferred from the Gonzalez Company account to the Hurtado Company Account, as referenced in the transfer instruction that HURTADO had sent GONZALEZ.

CLARKE MADE PAYMENTS TO GONZALEZ AND TO THE GONZALEZ COMPANY

37. My review of documents obtained during the course of the investigation reveals that TOMAS CLARKE, the defendant, also routed payments to MARIA GONZALEZ, the defendant. CLARKE utilized a Panamanian company he controlled, ETC Investments⁴ to direct certain of these payments to GONZALEZ.

38. My review of documents obtained from the Broker-Dealer and other financial records reveals the following:

a. TOMAS CLARKE, the defendant, joined the Broker-Dealer in or around late 2008 and served as a Senior Vice President in the GMG. In CLARKE's capacity as Senior Vice

⁴ Based on email and real estate records I have reviewed, it appears that TOMAS CLARKE's wife's first name begins with "E.", and thus "ETC Investments" bears the combined initials of CLARKE's wife's first name and the name "Thomas Clarke". Other evidence that CLARKE controls ETC Investments is set forth below.

President in the GMG, CLARKE participated in the Broker-Dealer's business involving BANDES.

b. Over the course of the Broker-Dealer's relationship with BANDES, the Broker-Dealer paid several million dollars in purported finder's fees to both a Panamanian resident ("Associate 2") and a Panamanian Company, ETC Investments, of which Associate 2 was designated as president, including the following:

i. On or about September 29, 2009, the Broker-Dealer in New York, New York, sent two wire transfers in the amounts of approximately \$2,002,983 and \$2,048,206, respectively, to an account held by ETC Investments in Switzerland.

ii. On or about January 21, 2010, the Broker-Dealer issued two checks in the amounts of approximately \$2,829,585 and \$1,920,531 to ETC Investments. These checks were issued from the Broker-Dealer in New York, New York, and, as reflected on stamps appearing on the back of the checks, were deposited into a Swiss bank.

iii. On or about May 4, 2010, the Broker-Dealer in New York, New York, issued a check for approximately \$2,500,000 to Associate 2.

iv. On or about May 18, 2010, this check was deposited into an ETC Investments account in Switzerland.

39. Notwithstanding Associate 2's designation as "president" of ETC Investments, I believe that TOMAS CLARKE, the defendant, had actual control of ETC Investments based on the following:

a. I have reviewed documents reflecting that CLARKE maintained a power of attorney for ETC Investments.

b. I have reviewed correspondence between CLARKE and another individual ("Associate 3"), demonstrating CLARKE's efforts to open a bank or brokerage account in the name of ETC Investments.

c. As described above, the initials "ETC" are a combination of CLARKE's wife's first name and the name "Thomas Clarke".

40. Based on documents I have reviewed, I also believe that TOMAS CLARKE, the defendant, made payments to the Gonzalez Company through ETC Investments. For example, I have learned that:

a. On or about April 13, 2010, April 30, 2010, and August 4, 2010, Associate 3 sent emails to CLARKE attaching instructions requiring a signature to authorize transfers from ETC Investments to a Gonzalez Company account in Switzerland. These transfer instructions were in the amounts of \$833,488.30, \$700,000, and \$900,000, and were described in the instructions as loans.

b. At least two of the transfers identified above in subparagraph 40(a) took place. Specifically, I have reviewed bank records reflecting the following:

i. On or about April 19, 2010, approximately \$883,488 was wired from an ETC Investments account in Switzerland to a Gonzalez Company account in Switzerland.

ii. On or about May 6, 2010, approximately \$700,000 was wired from an ETC Investments account in Switzerland to a Gonzalez Company account in Switzerland.

c. On or about May 24, 2010, Associate 3 sent an email to CLARKE attaching for CLARKE's signature an authorization to transfer \$1,550,000 from an ETC Investments account to another account held at the same Swiss bank (the "Intermediary Swiss Account"). Then, on or about June 4, 2010, bank records reflect that \$1,550,000 was transferred from the Intermediary Swiss Account to a Gonzalez Company account in Switzerland.

GONZALEZ RECEIVED AT LEAST \$3.6 MILLION IN KICKBACKS

41. Documents I have reviewed indicate that MARIA GONZALEZ, the defendant, received at least \$3.6 million in kickbacks. The documents I am relying on include the following:

a. The document ALEJANDRO HURTADO, the defendant, emailed to GONZALEZ on or about August 13, 2010, described above in paragraph 36, in connection with HURTADO's tax liability, in which HURTADO referenced a sub-total of \$2,028,541.80 that had been sent to GONZALEZ; and

b. Records, described above in sub-paragraph 40(b) reflecting that (i) \$883,488 was wired from ETC Investments to the Gonzalez Company on or about April 19, 2010, and (ii)

\$700,000 was wired from ETC Investments to the Gonzalez Company on or about May 6, 2010.

GONZALEZ RECEIVED FUNDS IN A PERSONAL ACCOUNT IN THE UNITED STATES FROM GONZALEZ COMPANY ACCOUNTS OVERSEAS

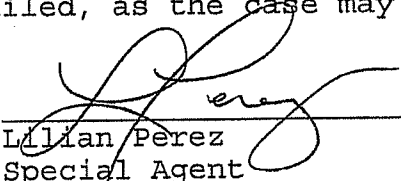
42. I have reviewed bank records for the Miami Gonzalez Account. These records reflect that MARIA GONZALEZ, the defendant, received funds into the Miami Gonzalez Account that were transferred from accounts outside of the United States held by the Gonzalez Company. For example:

a. On or about May 8, 2009, GONZALEZ received into the Miami Gonzalez Account approximately \$42,000 that had been transferred from an account held in the name of the Gonzalez Company in Switzerland.

b. On or about November 9, 2010, GONZALEZ received into the Miami Gonzalez Account approximately \$72,610 that had been transferred from an account held in the name of the Gonzalez Company in Switzerland.

c. On or about September 14, 2011, GONZALEZ received into the Miami Gonzalez Account approximately \$42,600 that was transferred from an account held in the name of the Gonzalez Company in Switzerland.

WHEREFORE, deponent prays that warrants be issued for the arrests of the above-named individuals and that they be arrested and imprisoned, or bailed, as the case may be.



Lillian Perez
Special Agent
Federal Bureau of Investigation

Sworn to before me this
12th day of March, 2013



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

RONALD L. ELLIS
United States Magistrate Judge
Southern District of New York